

REMARKS

Reexamination and reconsideration of claims 1-20 are respectfully requested.

Claims 1-20 were rejected under 35 U.S.C. sec. 112, first paragraph, as failing to comply with the written description requirement. The Office Action stated that "[t]he claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention." See p. 2 of the Office Action dated November 24, 2003. It is respectfully submitted that this is incorrect. One representative passage showing possession of the invention was reproduced in the last reply. See p. 6 of Applicant's Reply dated April 14, 2003, which was entered with the filing of the RCE dated September 9, 2003.

Again, Applicants direct the Examiner's attention to p. 10, 11. 10-16 of the present application which is reproduced below.

As a consequence of the high energy input, the outer sheath material melts in the region of the laser focus. Since the carbon contained in the soot combusts at the same time to form CO<sub>2</sub>, a largely soot-free, foamlke structured region is created, which very markedly scatters incident light. The region of the outer sheath layer 11 scanned with the laser probe thus looks like a white surface on a black background.

It is beyond question that this passage describes mechanism at work in the claimed invention and shows possession of the same. Withdrawal of the sec. 112 rejection, first paragraph, of claims 1-20 is respectfully requested.

Claims 5-9 were rejected under 35 U.S.C. sec. 112, first paragraph, as failing to comply with the written description requirement. Claims 5-9 have been amended. The amendment of claims 5-9 is not an admission that the art of record teaches, discloses, or otherwise suggests the features of the claims. For

09/665,760  
GR 98 P 1397 P  
Page 6

at least these reasons, withdrawal of the sec. 112 rejection, first paragraph, of claims 5-9 is respectfully requested.

Claims 5-9 were rejected under 35 U.S.C. sec. 112, second paragraph, for being indefinite. Claims 5-9 have been amended. For at least these reasons, withdrawal of the sec. 112 rejection, second paragraph, of claims 5-9 is respectfully requested.

Claims 1-12 were rejected under 35 U.S.C. sec. 112, second paragraph, for being indefinite. Specifically, the Office Action rejected claim 1 for the following reasons.

First, the phrase "bounding an exterior" was said to be vague and unclear. Applicants assert that one of ordinary skill reading the specification and claim would have understood the meaning of the phrase "bounding an exterior." However, claim 1 has been amended to remove any indefiniteness that may have existed with respect to this phrase. The amendment of claim 1 is not an admission that the art of record teaches, discloses, or otherwise suggests the features of the claim.

Second, the Office Action rejected claim 1 because the phrase "containing, at least inside said marking face, a second proportion of dye" was said to be unclear. Claim 1 was amended to remove any indefiniteness that may have existed with respect to this phrase. Additionally, the Office Action asks numerous questions such as "How is the dye contained within the marking face? The specification of the present invention directly discloses the answers to these questions. For instance, the specification states "[t]he outer sheath layer 11 serving as the marking surface also has soot admixed with it as a dye;..." See p. 9, ll. 6-7 of the present application. Moreover, claims 1 and 13 have been amended to recite how the dye is contained.

Finally, the Office Action rejected claim 1 because the phrase "dye associated with said second layer dimensioned to cause a color change upon irradiation with photons..." was said to be vague and unclear. One skilled in the art would clearly

---

09/665,760  
GR 98 P 1397 P  
Page 7

understand this limitation upon reading the specification. More specifically, the specification states "...a dimension of the exterior layer (thickness of the exterior layer and/or the proportion of the dye) is selected such the exterior layer absorbs the radiation used for marking completely..." See p. 6, ll. 8-11 of the present application. In other words, the thickness of the exterior layer and/or the proportion of dye can be selected so that the exterior layer absorbs the radiation. Additionally, claim 1 was amended to clarify this phrase. For at least these reasons, withdrawal of the sec. 112 rejection, second paragraph, of claims 1-12 is respectfully requested.

Claims 13-20 were rejected under 35 U.S.C. sec. 112, second paragraph, for being indefinite. Specifically, the Office Action stated that in claim 13 the phrase "...a dimension of said exterior layer selected from the group consisting of a thickness of the exterior layer and the proportion of said dye being selected..." is confusing. Claim 13 was amended to clarify this phrase. The amendment of claim 13 is not an admission that the art of record teaches, discloses, or otherwise suggests the features of the claim. For at least these reasons, withdrawal of the sec. 112 rejection, second paragraph, of claims 13-20 is respectfully requested.

Claims 1-20 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. First, the Office Action stated that claims 1 and 13 were rejected because the term "foamlike" is vague and indefinite. Applicants have taken the Primary Examiner's recommendation and amended the term "foamlike" in claims 1 and 13 to read as "foamed."

Second, the Office Action stated that claims 1 and 13 were rejected because the term "foamlike CO<sub>2</sub> region" is indefinite. Applicants submit that after reading the specification the limitation and mechanism of creating the region would be clear. Specifically, p. 10, ll. 10-16 of the specification states:

09/665,760  
GR 98 P 1397 P  
Page 8

As a consequence of the high energy input, the outer sheath material melts in the region of the laser focus. Since the carbon contained in the soot combusts at the same time to form CO<sub>2</sub>, a largely soot-free, foamlike structured region is created, which very markedly scatters incident light. The region of the outer sheath layer 11 scanned with the laser probe thus looks like a white surface on a black background.

For at least these reasons, withdrawal of the sec. 112 rejection, second paragraph, of claims 1-20 is respectfully requested.

Claims 1, 2, 3, 10, 11, and 12 were rejected under 35 U.S.C. sec. 103(a) applying U.S. Pat. No. 4,865,198 ('198) without a teaching reference. For a patent to be applicable under sec. 103(a), the teaching must, *inter alia*, expressly or inherently, teach, disclose, or otherwise suggest each and every feature of the claimed invention. Additionally, motivation and suggestion to modify the patent must be present.

The Office Action admits, and Applicants agree, that the '198 patent fails to teach a dye provided in both the first and second layers. See p. 7 of the Office Action dated November 24, 2003. Moreover, the '198 patent fails to teach, disclose, or otherwise suggest proportions of dye in the respective layers as recited in dependent claims. Still further, the '198 patent fails to teach using photons to melt an irradiated region, thereby forming a foamed CO<sub>2</sub> region that scatters incident light. Moreover, there is no objective evidence of record that discloses, teaches, or otherwise suggests these limitations. Thus, a *prima facie* case of obviousness is lacking. For at least these reasons, withdrawal of the sec. 103(a) rejection of claims 1, 2, 3, 10, 11, and 12 is respectfully requested.

As an independent basis, claim 1 recites, *inter alia*, a sheathing for a communication cable including a first layer of a first material containing a first proportion of a dye admixed with the first material, and bounding a core of the communication

09/665,760  
GR 98 P 1397 P  
Page 9

cable and a second layer adjacent to the first layer and bounding an exterior of the communication cable, the second layer having a marking face adapted to be marked by irradiation with photons, the second layer being formed of a second material that contains a second proportion of dye smaller than the first proportion of dye which is admixed with the second material.

On the other hand, the '198 patent teaches "...a patterned laser beam passing through an overwrap layer 2 and striking an ink coating 4 on a substrate 3, thereby evaporating ink from the substrate 3 and depositing the evaporated ink in a registered ink pattern 41 on the ink facing side of the overwrap layer 2." See the '198 patent at Col. 3, ll. 3-8. Clearly, the present invention is patentably distinct in view of the '198 patent. For at least the reasons stated, withdrawal of the sec. 103(a) rejection of claims 1, 2, 3, 10, 11, and 12 is warranted and is respectfully requested.

Claims 4-9 and 13-20 were rejected under 35 U.S.C. sec. 103(a) applying the '198 patent in view of U.S. Pat. No. 6,031,457 ('457). For at least the reasons stated above with respect to claim 1, withdrawal of the sec. 103(a) rejection of claims 4-9 is warranted and is respectfully requested.

Regarding claims 13-20, the purported modification does not teach all the features of claim 13. Claim 13 recites, *inter alia*, a sheathing article including a sheathing separating an interior from an exterior, and having an exterior layer, the exterior layer being transparent to a radiation used for marking the exterior layer, and containing a proportion of a dye selected from the group consisting of soot and graphite that is admixed with the sheathing. The purported combination does not teach, disclose, or otherwise suggest each and every feature of claim 13. Thus, the withdrawal of the sec. 103(a) rejection of claims 13-20 is warranted and is respectfully requested.

---

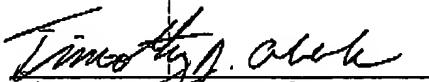
09/665,760  
GR 98 P 1397 P  
Page 10

No fees are believed due in connection with this Reply. If any fees are due, please charge any fees, or credit any overpayment, to Deposit Account Number 50-0425.

Allowance of all pending claims is believed to be warranted and is respectfully requested.

The Examiner is welcomed to telephone the undersigned to discuss the merits of this patent application.

Respectfully submitted,



Timothy J. Aberle  
Attorney  
Reg. No. 36,383  
P.O. Box 489  
Hickory, N. C. 28603  
Telephone: 828/901-5354

Date: February 24, 2003

09/665,760  
GR 98 P 1397 P  
Page 11